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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Billed Party Preference for )  
InterLATA 0+ Calls )

CC Docket No. 92-77

**REPLY COMMENTS OF**  
**INVISION TELECOM, INC.**

InVision Telecom, Inc.  
1150 Northmeadow Parkway  
Suite 118  
Roswell, GA 30076

August 16, 1996

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**SUMMARY**

While InVision and other reputable inmate-only telephone services providers agree with groups such as the Citizens United for Rehabilitation of Errants that charges for inmate-only telephone service should be reasonable, inmate-only telephone service is a unique and valuable service for which providers are entitled to fair compensation.

The Commission can enforce the prohibition against unjust or unreasonable communications rates through its investigative and enforcement powers. However, should the Commission adopt benchmark rates for providers of inmate-only telephone service, the benchmark must be reasonable and recognize the higher cost to provide inmate-only telephone service. It must also address underlying causes at the state level that often result in higher interstate rates. In addition, if a rate benchmark approach is adopted by the Commission, it must include an adjustment mechanism.

InVision proposes three options for rate benchmarks: 1) an interstate benchmark rate of 115% of the three largest carriers' "standard collect" interstate rates, plus a \$.90 inmate service fee for every interstate and intrastate call; 2) a benchmark rate of 115% of "inmate collect" rates for every interstate and intrastate call; or 3) an interstate benchmark rate of 130% of the three largest carriers' "inmate collect" rates.

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Because of the cost of providing rate disclosures as outlined in the Comments of AT&T, MCI and others, rate disclosures should only be required for calls exceeding the rate benchmark, and then only upon request.

Finally, the Comments filed in response to this Notice establish conclusively that Billed Party Preference is not viable, and this docket should now be closed with respect to further consideration of BPP.

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InVision Telecom, Inc. ("InVision") hereby replies to Comments filed in the Second Further Notice of Proposed Rulemaking, FCC No. 96-253, released by the Federal Communications Commission (the "Commission") on June 6, 1996 ("Notice").

**I. BENCHMARK RATES**

**A. If the Commission adopts benchmark rates for inmate-only telephone service providers, it must continue to acknowledge that inmate-only telephone service is essentially different from public payphone service.**

Prior to competition, inmate-only telephone service could only be provided on a very limited basis because of the confinement facilities' concerns regarding security and economic constraints (facilities often paid for a LEC payphone for inmate use). Competition in the inmate-only telephone industry engendered technological advances resulting in the widespread deployment of

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payphones for inmate use. Ironically, inmate service and equipment providers did such a good job of making this advanced technology transparent to the called party and in increasing the availability of inmate payphones, some segments of the public developed an unrealistic expectation that inmate-only service could be provided at the same rates as payphone service provided to the general public. This unrealistic expectation is typified in Comments to the Notice filed by the American Friends Service Committee ("AFSC") and the Citizens United for Rehabilitation of Errants ("C.U.R.E.").

The advanced technology required to provide inmate-only telephone service is demonstrated in the list of specialized features attached to InVision's July 17, 1996 Comments in this proceeding, a copy of which is also attached hereto as Exhibit A. Rather than expounding again on those many features, perhaps the difference in the costs and needs of public versus inmate collect calls can be better illustrated by analyzing a standard component of a collect call: validation. When a collect call is made, whether inmate or not, the called telephone number must be validated as a billable number before the call is completed.

When an inmate dials a telephone number from an InVision inmate-only telephone, it goes through the following process:

- Step 1. Called number is screened by equipment on-site at the facility for telephone numbers that have been blocked to prevent harassment and reduce fraud. These typically

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include telephone numbers that access the public telephone network or live operators, toll free numbers, directory assistance, emergency numbers and pay per call numbers.

- Step 2. During the initial screen, the controlled number file is also checked. This file contains telephone numbers that have been individually blocked at the request of any end user or the facility administration, e.g., crime victims, witnesses, judges, facility personnel.
- Step 3. The number is then forwarded to InVision's off-site operations center and checked against the company's master database for numbers that have been blocked as described in Steps 1 and 2. The cost of Steps 1 through 3 are embedded in the costs of the inmate payphone equipment, personnel and associated overhead.
- Step 4. The called number is next sent to InVision's validation gateway provider, which a) checks its database to determine which LIDB<sup>1</sup> hub the called number should be forwarded to and b) performs call trending to determine potential fraud.
- Step 5. The called number is finally sent by the validation gateway provider to the appropriate LIDB hub to ascertain whether the called number subscribes to any blocking or screening services that would make the call unbillable. The cost of Steps 4 and 5 are direct costs paid to the LIDB gateway provider and the LEC whose database is queried.

The entire validation process is completed in approximately 6 to 10 seconds. If the called telephone number fails to pass any one of these validation screens, the call is not completed or billed.

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<sup>1</sup>Line Information Data Base, a system developed and maintained by the Regional Bell Operating Companies and independent telephone companies to provide Billed Number Screening validations.

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For a collect call made from a public payphone, validation begins with Step 4. Even though the cost of Steps 4 and 5 would be roughly the same per query whether the call is made by an inmate or not, inmate service providers pay for a significantly greater number of queries for uncompleted calls. This is because inmates have time available to repeatedly dial a telephone number if they reach a busy signal, receive no answer, or if the attempted call was refused. InVision currently validates over 100,000 calls a day, of which only approximately 40 to 50 thousand pass validation. The majority of those calls are then completed and billed.

As extensively demonstrated in this and other proceedings, inmate-only telephone service is different from payphone service provided from aggregator locations, e.g., convenience stores. The AFSC's statement that confinement facilities are included in the definition of aggregator is inconsistent with the Commission's rulings and is simply incorrect.

Competition in the inmate-only telephone industry also made inmate-only payphones a revenue source instead of a revenue drain for confinement facilities. InVision disagrees with the AFCS's statement that governmental agencies "rationalize" this revenue source on the basis that convenience stores or gas stations receive commissions from payphones on their property. Among other things, this revenue provides rehabilitative programs for inmates that may



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not otherwise be available. For example, Joe Arpaio, sheriff of Maricopa County, Arizona recently stated "Why not let [inmate payphone revenues] help pay for education, because we do use that money for job rehabilitation, education, GED tutoring."<sup>2</sup>

Inmate-only telephone service is a valuable service that is beneficial to the public. In order to preserve and advance the positive trends in technology and availability of inmate phones, the Commission must continue to acknowledge that inmate-only telephone service is unique.

**B. Benchmark rates, if adopted, must balance reasonable end user rates with fair compensation for the inmate-only telephone service provider.**

InVision believes that its current rates are reasonable and that the Commission can enforce the prohibition against unjust or unreasonable communications rates through its investigative and enforcement powers. Should the Commission determine, however, that benchmark rates are appropriate, the benchmark must be reasonable, recognizing the higher cost to provide inmate-only telephone service and addressing the economic reality that certain intrastate rate ceilings do not allow inmate service providers to receive fair

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<sup>2</sup>Whitney, Daisy, "America's Toughest Sheriff Talks About Phones: An Interview with Joe Arpaio," CrimeCom<sup>TM</sup>, Vol. 4, No. 3, July 1996.

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intrastate compensation, thereby resulting in higher interstate rates to the end user.

The foundation for including measures that extend to the state level was established when the Commission issued its Notice of Proposed Rulemaking in Docket No. 96-128,<sup>3</sup> dealing with fair compensation to payphone providers for each intrastate and interstate call, simultaneously with its Notice in this proceeding, dealing with reasonable rates for end users. In its Comments, InVision presented three options for rate benchmarks (listed here in order of preference): 1) an interstate benchmark rate of 115% of the three largest carriers' "standard collect" interstate rates, plus a \$.90 inmate service fee for every interstate and intrastate call; 2) a benchmark rate of 115% of "inmate collect" rates for every interstate and intrastate call; or 3) an interstate benchmark rate of 130% of the three largest carriers' "inmate collect" rates.

The impact of the correlation between intrastate and interstate rates is also discussed by the New Jersey Payphone Association ("NJPA"), which notes in its Comments that a crucial element in interstate rates charged by payphone providers is the lack of fair compensation to the provider at the state level. The

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<sup>3</sup>In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Notice of Proposed Rulemaking, CC Docket No. 96-128, FCC 96-254 (Rel. June 6, 1996).

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devastating effect of a rate benchmark that fails to address the underlying causes of higher rates is candidly depicted by the NJPA: New Jersey's independent payphone providers will be forced to leave the market and the number of payphones available to the public will be significantly reduced. This sequence of events would be echoed across the nation, and include public and inmate payphones.

While InVision agrees with C.U.R.E that charges for inmate-only telephone service should not be unnecessarily high, as discussed above we completely disagree with C.U.R.E.'s comment that a rate benchmark for inmate-only telephone service should not "exceed whatever restrictions are established for interstate collect calls placed from non-prison phones."<sup>4</sup> Again, C.U.R.E. fails to recognize that the service provided for inmates is, by necessity, essentially different and more expensive to provide than payphone service provided to the general public. In addition to the specialized features necessary in the confinement facility environment, the disproportionately high incidence of bad debt for inmate-only telephone services also makes this service more expensive to provide. As set forth in InVision's initial comments, bad debt for its inmate-only services is approximately 16 percent versus approximately 6 percent bad debt for non-inmate operator

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<sup>4</sup>Comments of C.U.R.E. on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 16, 1996), at 3.

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services provided from public payphones operated by InVision's parent company. Higher rates for inmate-only telephone service are a result of the higher cost to provide that service, not a "punishment" as C.U.R.E. mistakenly concludes.<sup>5</sup>

InVision advocates rates that are reasonable for the end user that also provide fair compensation to the inmate-only telephone service provider. Absent fair compensation, many inmate-only telephone service providers, including incumbent LECs who must soon operate under the same regulations as independent providers, may be forced to leave the market. Not only would that be inconsistent with the edicts established under Section 276 of the Telecommunications Act of 1996,<sup>6</sup> it would create the very circumstance that C.U.R.E. seeks to avoid: the reduction of inmate phones would result in "reducing or eliminating rehabilitative ties that have a demonstrable effect in reducing recidivism, preserving the family unit, easing prison tensions, and promoting societal efforts to rehabilitate ex-offenders."<sup>7</sup>

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<sup>5</sup>Id., at 9.

<sup>6</sup>Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. § 276).

<sup>7</sup>Comments of C.U.R.E. on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 16, 1996), at 2.

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**C. If a benchmark rate approach is adopted, it must include an adjustment mechanism.**

The Commission's tentative conclusions in the Notice clearly do not anticipate establishment of a static benchmark,<sup>8</sup> and InVision agrees with Comments filed in support of the need for an inflation adjustment mechanism. Without an inflation adjustment mechanism, carriers would need to petition the Commission at the point at which they believed economic conditions made the existing rate benchmarks inconsistent with the market. Since that point would vary by carrier, the Commission would be faced with multiple petitions for relief. As noted by the Telecommunications Resellers Association, a procedure for periodically revising the benchmarks would be appropriate.<sup>9</sup>

**II. RATE DISCLOSURES**

**A. The cost of rate disclosures must be considered.**

Several parties filed comments regarding the cost of providing rate disclosures, with MCI estimating that it would cost an

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<sup>8</sup>See, Notice ¶25, et. seq.

<sup>9</sup>Comments of the Telecommunications Resellers Association on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 17, 1996), at 8.

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additional \$.40 per call.<sup>10</sup> InVision stated that at a minimum, it would cost \$300,000 per year in network time alone for it to provide rate disclosures. Additional costs to provide service are typically passed through to the end user.

The Public Utilities Commission of Ohio commented that branding for inmate calls "must include the name of the inmate service provider, must provide a means for toll-free access to such provider, and must include information indicating that the charge for the call may vary from those of the billed party's regular telephone company."<sup>11</sup> InVision notes several problems with this recommendation. First, if reasonable benchmark rates are adopted by the Commission, neither the 800 number nor the final suggested statement would be necessary in the call branding. Second, since the "regular telephone company" has been required to operate under the same conditions as independent providers,<sup>12</sup> end users may be confused by hearing "that the charge for the call may vary from those of the billed party's regular telephone company" if the call is furnished by an incumbent local exchange company. Finally,

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<sup>10</sup>Comments of MCI Telecommunications Corporation on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 16, 1996), at 3, 4.

<sup>11</sup>Comments of The Public Utilities Commission of Ohio on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 16, 1996), at 5.

<sup>12</sup>See, In the Matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, *Declaratory Ruling*, RM-8181, Rel. February 20, 1996.

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while essential information must be provided in the call branding, requiring long and unnecessary messages will proportionately increase the rates for the service.

The American Friends Service Committee suggests that disclosures for inmate calls include "percent of total call costs that are being charged over and above that which is needed for connect."<sup>13</sup> It is not clear whether AFSC believes this disclosure should be made when the call is branded. In any event, their suggestion calls for a disclosure that is immaterial and furthermore impractical because, among other things, it would require constant recalculation of that percentage as underlying components change.

Because additional costs incurred in providing service must be passed along to the end user, the Commission should be extremely judicious in any adopting an approach that requires rate disclosures during call branding.

**B. Rate disclosures should be required only if rates exceed benchmark rates.**

If the Commission adopts a reasonable rate benchmark approach, InVision joins the many parties advocating that rate disclosures should only be required for call rates that exceed the benchmark.

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<sup>13</sup>Comments of American Friends Service Committee on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 16, 1996), at 2.

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As stated in the joint comments of Bell Atlantic, BellSouth and NYNEX, "[D]isclosure should be necessary only on calls that exceed the benchmark. Requiring disclosure on all calls would defeat the purpose of the benchmark/disclosure process, would impose costs on OSPs with reasonable prices and would inconvenience and annoy the very consumers the Commission seeks to protect."<sup>14</sup>

Since any benchmark rates will be, by definition, considered just and consistent with public expectation, carriers providing service at or below those benchmarks should not be required to disclose rates during call branding.

**C. Rate disclosures on every call are unnecessary.**

As noted by AT&T, there is no basis for imposing rate disclosure requirements on all 0+ calls, thus inconveniencing consumers by slowing call processing and increasing carriers' costs.<sup>15</sup> In addition, in the inmate-only telephone service environment, rate disclosures for every call would be repetitive and unnecessary because a called party may receive repeated calls from the same inmate. If rate disclosures are required to be

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<sup>14</sup>Comments of Bell Atlantic, BellSouth and NYNEX on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 17, 1996), at 5.

<sup>15</sup>Comments of AT&T Corp. on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 17, 1996), at 4, 5.



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included as part of the call branding, they should be provided at the request of the paying party.

**III. IT IS TIME FOR THE COMMISSION TO END ITS CONSIDERATION OF THE  
BILLED PARTY PREFERENCE ("BPP") CONCEPT**

InVision agrees with the position set forth by GTE with respect to BPP in the inmate environment:

In its March 5, 1996 Order in CC Docket No. 94-158, the Commission acknowledged that many commenters 'assert that inmate service rates have been brought under control during the past five years, that the market is highly competitive, and that inmate service providers are being called upon to meet benchmark rates that are based on those of dominant carriers for similar calls.'<sup>16</sup> Since this essentially describes the Commission's goal in this proceeding there appears to be little, if any, problem with the inmate-only telephone market and ... the Commission should not mandate any special BPP requirements for inmate phones.<sup>17</sup>

Both C.U.R.E. and AFSC advocate BPP in the inmate environment under the misconception that this would reduce end user rates. They fail to acknowledge that 1) the cost to implement and maintain BPP would have to be absorbed by those end users and 2) BPP would effectively end the inmate-only telephone service industry because

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<sup>16</sup>Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 94-158, released March 5, 1996 at 17.

<sup>17</sup>Comments of GTE Service Corporation, et al., on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 17, 1996), at 10.

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it is incompatible with necessary fraud protections.<sup>18</sup> As a result, there will be no "competitive efforts of collect-only inmate telecommunications service providers [to redirect] away from correctional facilities and toward consumers."<sup>19</sup>

Among the controversies surrounding virtually every issue in this rulemaking, the unsuitability of BPP, particularly in the inmate environment, is one issue that has unified opposition and must be heeded. The diverse range of parties in opposition includes Regional Bell Operating Companies, independent local exchange companies, interexchange carriers, independent payphone providers, independent inmate service providers, resellers and operator services providers. Each group presents strong and convincing evidence, including cost of implementation and loss of security features in the inmate environment, which will not be reiterated here.

As Southwestern Bell, which originally supported BPP, summarized, "the time for BPP has come and gone and the issue should now be closed."<sup>20</sup>

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<sup>18</sup>See, Comments of Inmate Calling Services Providers Coalition on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 17, 1996), at 3-5.

<sup>19</sup>Comments of C.U.R.E. on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 16, 1996), at 2, 3.

<sup>20</sup>Comments of Southwestern Bell Telephone Company on Second Further Notice of Proposed Rulemaking, CC Docket 92-77 (July 17, 1996), at 2.

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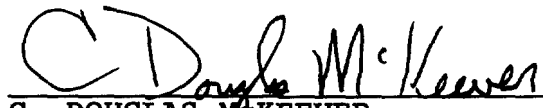
CONCLUSION

InVision respectfully requests that the Commission take action in a manner consistent with the comments and specific recommendations made herein. The adoption of InVision's proposal for a reasonable rate benchmark with rate disclosures required for rates exceeding the benchmark would serve the public interest by preserving and promoting the ability of inmate telephone service providers to meet the needs of confinement facilities, inmates and the parties they call at prices that are fair to consumers and that fairly compensate the service provider.

RESPECTFULLY SUBMITTED,

INVISION TELECOM, INC.

BY:

  
C. DOUGLAS MCKEEVER  
Vice President - Finance

InVision Telecom, Inc.  
1150 Northmeadow Parkway, Suite 118  
Roswell, Georgia 30076

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**EXHIBIT A**

Special functions typically required of inmate telephone systems:

- ° Allowing specific types of calls
  - Automated collect call only
  - Automated collect person to person call option
  - Debit call option that allows charges for calls to be deducted from the inmate's commissary account maintained by the facility
- ° Specialized branding
  - Bi-lingual voice prompts and announcements
  - Custom announcements that may identify the call as being from a confinement facility and may include the name of the facility
- ° Automated options for the called party, activated by pressing a number on the telephone keypad as instructed by voice prompt
  - Rate quotes
  - Ability to block collect calls from the facility
- ° Blocking of certain calls
  - Specific telephone numbers of persons who do not wish to be called by an inmate, at the request of the facility administrator or the called party, including judges, witnesses and facility personnel
  - Telephone numbers that allow access to the public telephone network, including 800/888 numbers and carrier access numbers
  - Incoming calls
  - International calls
  - Service bureau calls (911, 411, 555-1212)
- ° Three-way call detection to prevent calls to blocked telephone numbers
- ° Free calls, e.g., to public defenders
- ° Limitations as deemed appropriate by the administration
  - Call duration limits
  - Time of day access limits
- ° A PIN code system that enables facility administrators to identify inmates

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- ° An on-site host or central processor with failure safeguards
- ° Monitoring system as defined by facility administration
  - ° Ability to alert facility personnel that a pre-defined situation is occurring
  - ° Compatibility with recording and monitoring equipment that may be used by the confinement facility